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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re BRANDON M., a Person Coming  
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

ANA M.,

Defendant and Appellant.

D043848

(Super. Ct. No. J514066)

APPEAL from a judgment of the Superior Court of San Diego County, Cynthia  
Bashant, Judge. Affirmed.

## I.

### INTRODUCTION

Ana M. (Ana) appeals from a judgment denying her petition to modify her son Brandon's placement, pursuant to Welfare and Institutions Code section 388,<sup>1</sup> and terminating her parental rights to Brandon, under section 366.26.

On appeal, Ana claims the trial court abused its discretion in denying her section 388 petition for modification. Specifically, Ana contends the trial court erred in failing to find that she had demonstrated a change in circumstances based on her compliance with her reunification plan, and that the trial court also erred in failing to consider the goal of family preservation in determining what placement would be in Brandon's best interests. With regard to the termination of her parental rights, Ana contends the trial court's finding that Brandon was likely to be adopted was not supported by clear and convincing evidence (§ 366.26, subd. (c)(1)) and that the court erred by failing to apply the beneficial relationship exception to the termination of parental rights (§ 366.26, subd. (c)(1)(A)). We affirm the judgment.

## II.

### FACTUAL AND PROCEDURAL BACKGROUND

In March 2002, the San Diego County Health and Human Services Agency (Agency) removed Brandon from Ana's custody. Brandon was two years old at the time.

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<sup>1</sup> Unless otherwise specified, all subsequent statutory references are to the Welfare and Institutions Code.

The Agency filed a juvenile dependency petition pursuant to section 300, subdivisions (b) and (g). The petition alleged that between July 2001 and March 2002, Ana used narcotics, including methamphetamine and cocaine, to excess. The petition also alleged that Ana had been arrested in August 2001 and that she had admitted to drug use and entered into a voluntary contract for services. The petition further alleged that Ana was arrested again in March 2002 for possession of methamphetamine and cocaine and that she was incarcerated and unable to provide and care for Brandon.

Shortly thereafter, the Agency filed a detention report. The report noted that in August 2001 the Agency received a referral against Ana for possession of methamphetamine and a loaded shotgun. The court intervened and Ana voluntarily participated in family maintenance. The case was closed on March 1, 2002 when Ana's situation appeared to have stabilized. A new case was opened against Ana as the result of a March 20, 2002 police search of Ana's residence during which drugs and equipment used in drug sales were found. At the detention hearing, the court made a prima facie finding on the petition and detained Brandon in out-of-home care.

In May 2002, Ana pled nolo contendere to the allegation that she had failed to protect Brandon in accordance with section 300, subdivision (b). At the jurisdiction and disposition hearings on May 30, 2002, the court placed Brandon with Maria R., an aunt who lived in Tijuana, Mexico, and ordered Ana to comply with a case plan that included therapy, a parenting class, and the Substance Abuse Recovery Management System (SARMS) program.

In November 2002, the Agency filed its six-month review report. The report noted that Ana had been incarcerated during the period under review, but that she was expected to be released on November 12, 2002. The report also noted that, while in prison, Ana had participated in some drug treatment programs, that she had tested negative for drugs, and that she had attended a parenting course. The Agency recommended no change in Brandon's custody and that Ana continue to receive services.

On December 2, 2002, the Agency informed the court that Brandon was in critical condition at a Long Beach hospital and that Ana had been deported. On December 4, 2002, the Agency filed a petition pursuant to section 387 alleging that Maria R. had failed to inform the agency of Brandon's medical condition and that she had allowed Brandon to live with another relative without the knowledge of the Agency. The petition further alleged that Brandon had been admitted to the hospital for an acute asthma attack on November 28, 2002. On December 4, 2002, the court held a detention hearing on the supplemental section 387 petition and detained Brandon at Polinsky Child Center. One week later, the court held the six-month review hearing. At the hearing, the court sustained the section 387 petition, continued Brandon's placement in a foster home, and found that Ana had made "moderate" progress in alleviating the causes of Brandon's placement in foster care.

In June 2003, the court held a contested 12-month review hearing. At the hearing, the Agency's status review report indicated that Ana had been deported to Mexico in

November 2002, but that she had returned to the United States in December 2002. She began the SARMS program on December 23, 2002, but had several unexcused absences for drug screening during early 2003. Ana was involved in an alcohol-related car accident in February 2003, in which her arm was broken. Both Ana and the driver of the car in which Ana was riding had been drinking prior to the accident. Ana was resistant to accepting responsibility for her actions and remained homeless and unemployed. The report further noted that Ana's therapist had remarked that Ana behaved impulsively at times. With regard to visitation, interactions between Ana and Brandon were "regular and appropriate," but "lacked emotional warmth."

The report noted that Brandon had been diagnosed with global moderate development delays and severe receptive and expressive language impairments. The report also stated, "Brandon is friendly but displays an affectionate behavior toward everyone including strangers, indicative of an attachment problem." Finally, while Brandon's asthma had stabilized while he was in foster care, Ana denied that Brandon suffered from asthma.

At the conclusion of the hearing, the court noted that Ana had a lengthy history of substance abuse and that she was in violation of the SARMS program as late as February 2003 when she was involved in the alcohol-related car accident. In addition, the court noted that Ana still denied that she had any substance abuse problems. The court found that Ana's progress in eliminating the causes of Brandon's placement in foster care had been minimal. The court terminated services and set a section 366.26 hearing.

In November 2003, Ana filed a petition pursuant to section 388 seeking to have Brandon returned to her. In her petition, Ana alleged the following changed circumstances:

- "1. [Ana] has voluntarily sought individual therapy.
- "2. [Ana] has obtained employment.
- "3. [Ana] has completed three phases of her treatment program, and is currently in phase 4.
- "4. [Ana] has made tremendous breakthroughs and has been able to confront her denial about the depth and length of her drug/alcohol use.
- "5. [Ana] has consistently tested negative for all drugs and alcohol.
- "6. [Ana] has maintained regular and consistent visitation with her son Brandon."

The petition further alleged that, based on her "tremendous breakthroughs, and steady pattern of sobriety, it is [in] Brandon's best interest to be returned to his mother."

In January 2004, the court held a joint hearing to consider both Ana's section 388 petition and the Agency's petition to terminate Ana's parental rights pursuant to section 366.26. Antonia Martinez, Ana's substance abuse counselor, testified at the hearing. She stated that Ana had continued substance abuse treatment after reunification services were terminated on June 30, 2003. Martinez said that Ana had made "good progress" in the program since June 30. Martinez also reported that since June 30, all of Ana's urinalysis tests had been negative for drugs or alcohol. Martinez acknowledged that Ana had had a "relapse" in October 2003, during which she drank alcohol. Martinez noted that she had seen Ana interact with Brandon on approximately five occasions for periods of approximately 15-20 minutes each. She described the relationship between Ana and Brandon as a "good bond."

Ana also testified at the hearing. She stated that her drinking was the reason Brandon was taken into the dependency system. Ana also noted that she had been going to individual therapy sessions, but said she had not been to a session since December 1, 2003. She admitted to having had a relapse in October 2003, when she drank a single beer, and said she was on the first step of a 12-step recovery program. Ana denied ever having used methamphetamine.

Ana testified that she was living in a one bedroom apartment, and that she had been living there for less than a week. She was planning to move again soon. Prior to living in the one bedroom apartment, she had lived in a studio apartment for approximately two weeks. Before living in the studio apartment, she had lived in a bedroom in a house for one month, before the house was demolished. Ana also said she had lived in a shelter for the previous six to seven months.

The Agency offered in evidence a section 366.26 report and various addenda to that report. In its December 9, 2003 addendum report, the Agency noted that Ana had missed three therapy sessions in November and December 2003, and that Ana's therapist was terminating her as a client. The report also noted that Ana had suffered a setback in October 2003 in her attempt to refrain from drinking alcohol, and that she was in the process of repeating stages one through three of her substance abuse program. In addition, the report noted that in 2001 Ana had admitted to using methamphetamine on a weekly basis. The trial court also heard argument from all counsel. Brandon's counsel and the Agency argued that Ana's section 388 petition should be denied.

The court noted that Ana had a lapse in her attempt to stay sober in October 2003 and that the court was concerned about Ana's denial of her prior drug use. The court also observed that Ana's residential situation was "constantly changing." The court remarked that Ana had had a number of problems stemming from alcohol or drug use, despite the Agency's interventions. Finally, the court emphasized that Brandon had been in seven different placements since the beginning of the case and that he was in need of stability, particularly in light of his physical and mental disabilities. The trial court found that circumstances were changing, but that they had not changed, and denied Ana's petition.

Immediately after denying Ana's section 388 petition, the court held the contested section 366.26 hearing. The Agency offered in evidence the same reports the court had considered when it denied Ana's section 388 petition. Ana called Brandon's foster mother, Margarita A. (Margarita), to testify. Margarita testified that she was aware of Brandon's medical needs. Margarita also stated that the visits she had observed between Ana and Brandon were "good" and that she had heard Brandon call Ana "mama." Margarita testified that Brandon was "initially sad" after his visits with Ana, but that "after a minutes [*sic*] or so . . . he is not crying or upset."

The court then heard argument from all counsel. The Agency argued that Ana had not established that the beneficial relationship exception to the termination of parental rights (§ 366.26, subd. (c)(1)(A)) applied, and requested that Ana's parental rights be terminated. Brandon's counsel stated that she "incorporate[d] [the Agency's] comments as [her] own." Ana's counsel requested that the court apply the beneficial relationship



exception and order a permanent plan of guardianship or long-term placement rather than adoption.

The court found that Brandon was adoptable and that the beneficial relationship exception to the termination of parental rights did not apply. The court terminated Ana's parental rights and ordered adoption as Brandon's permanent plan.

Ana timely appeals.

### III.

#### DISCUSSION

##### *A. The Trial Court Did Not Abuse Its Discretion in Denying Ana's Section 388 Petition to Modify Brandon's Placement*

Ana claims the trial court erred in denying her section 388 petition to modify Brandon's placement to have him returned to her custody. We review her claim for abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

Section 388 provides in relevant part:

"Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself or herself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court."

"Modification orders in juvenile dependency court are authorized by section 388. Essentially, the statute requires a showing of a change of circumstances and that modification based on that change would be in the 'best interests' of the minors." (*In re*

*Kimberly F.* (1997) 56 Cal.App.4th 519, 526 (*Kimberly F.*.) In *In re Marilyn H.* (1993) 5 Cal.4th 295, 308-309, the Supreme Court outlined a parent's right to utilize section 388 to seek reunification once services have been terminated and a section 366.26 hearing set:

"[T]hroughout the reunification period and thereafter, the parent has the continuing right to petition the court for a modification of any of its orders based upon changed circumstances or new evidence pursuant to section 388. Once reunification services are ordered terminated, the focus shifts to the needs of the child for permanency and stability. A hearing pursuant to section 366.26 to select and implement a permanent plan for the children is to be heard within 120 days from the time it was set. (§§ 361.5, subd. (f), 366.21, subds. (e) & (g), 366.22, subd. (a).) The court need not continue to consider the issue of reunification at the section 366.26 hearing. The burden thereafter is on the parent to prove changed circumstances pursuant to section 388 to revive the reunification issue."

Ana relies on *Kimberly F.*, *supra*, 56 Cal.App.4th at page 528, for the proposition that section 388 provides an "escape mechanism" when parents complete a reformation in the short, final period after the termination of reunification services but before the actual termination of parental rights. In *Kimberly F.*, two children were removed from their home based on their mother's failure to maintain the home in a safe and sanitary condition. Between the 18-month review and the scheduled permanency planning hearing, the mother demonstrated that she could keep her home in a sanitary condition. The Court of Appeal concluded that the trial court had abused its discretion in denying the mother's section 388 petition to have the children returned to her. (*Id.* at pp. 521-522.)

In reaching its conclusion, the *Kimberly F.* court noted, "It is only common sense that in considering whether a juvenile court abuses its discretion in denying a section 388

motion, the gravity of the problem leading to the dependency, and the reason that problem was not overcome by the final review, must be taken into account." (*Kimberly F.*, *supra*, 56 Cal.App.4th at p. 531.) Further, in a footnote particularly relevant to this case, the *Kimberly F.* court noted:

"For example, we doubt that a parent who sexually abused his or her child could ever show a sufficient change of circumstances to warrant granting a section 388 motion. Likewise the parent who loses custody of a child because of the consumption of illegal drugs and whose compliance with a reunification plan is incomplete during the reunification period. It is the nature of addiction that one must be 'clean' for a much longer period than 120 days to show real reform." (*Id.* at p. 531, fn. 9.)

In this case, at the time of the hearing on her section 388 petition in January 2004, Ana had been sober for only approximately three to four months, since her relapse in October 2003. She also had had repeated relapses during past attempts to stay sober, including the car accident incident in February 2003. Although Ana was participating in alcohol and drug treatment programs, she had not completed the programs. Further, Ana denied ever having used methamphetamine, after having previously admitted to such use. In addition, Ana had recently missed several therapy sessions and, as a result, her therapist was in the process of terminating her as a client. Finally, Ana had changed residences several times in the recent past, and was contemplating further moves. The trial court did not abuse its discretion in concluding that Ana had failed to demonstrate changed circumstances sufficient to justify returning Brandon to her care.

We also reject Ana's claim that Brandon's best interests would have been served by modifying his placement order to reunite him with his mother. Ana argues that the

trial court failed to take into consideration the goal of family preservation when it denied her petition. We disagree. Ana's section 388 petition was brought after reunification services had been terminated and a section 366.26 hearing date set. Thus, it was wholly appropriate for the trial court to consider Brandon's need for stability in its evaluation of Ana's petition. (*In re Marilyn H.*, *supra*, 5 Cal.4th at p. 309.) Further, there is nothing in the record to suggest that the trial court failed to consider the goal of family preservation in denying Ana's petition. On the contrary, the court noted that "[t]he Agency has bent over backwards to try and make it work with mother."

We also reject Ana's contention that Brandon's health problems militated in favor of her modification petition. As more fully discussed in the part III(B)(1), Ana repeatedly denied the seriousness of Brandon's mental and physical disabilities, while Brandon's foster parents were committed to providing him with appropriate treatment for his medical needs. Finally, we reject Ana's argument that the trial court failed to take into consideration Brandon's close attachment to her. As more fully discussed in part III(B)(2), the trial court carefully analyzed Ana's personal situation and Brandon's needs and concluded that reunification with Ana was not in Brandon's best interests.

We conclude the trial court did not abuse its discretion in denying Ana's section 388 petition.

*B. The Trial Court Did Not Err in Terminating Ana's Parental Rights*

*1. Substantial Evidence Supports the Trial Court's Determination that Brandon Is Likely To Be Adopted*

Ana claims there is insufficient evidence to support the trial court's determination that Brandon is likely to be adopted, under section 366.26, subdivision (c)(1).

"In order for a juvenile court to terminate parental rights under section 366.26, the court must find by clear and convincing evidence that it is likely that the child will be adopted. (§ 366.26, subd. (c)(1).)" (*In re Asia L.* (2003) 107 Cal.App.4th 498, 509.)

"On appeal, we review the factual basis for the trial court's finding of adoptability and termination of parental rights for substantial evidence." (*In re Josue G.* (2003) 106 Cal.App.4th 725, 732.)

In determining a child's adoptability pursuant to section 366.26, subdivision (c)(1), "the present existence or nonexistence of a prospective adoptive parent . . . is a factor in determining whether the child is adoptable, but is not in itself determinative." (*In re David H.* (1995) 33 Cal.App.4th 368, 378.) The court in *In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649-1650, explained the relevance of the existence of prospective adoptive parents to the trial court's adoptability determination:

"The issue of adoptability posed in a section 366.26 hearing focuses on the *minor*, e.g., whether the minor's age, physical condition, and emotional state make it difficult to find a person willing to adopt the minor. [Citations.] Hence, it is not necessary that the minor already be in a potential adoptive home or that there be a proposed adoptive parent 'waiting in the wings.' [Citations.] Usually, the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor's age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective

adoptive parent's willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent *or by some other family*. [Citation.]"

In this case, Edwin Cespedes, an adoption worker with the Agency, opined in the Agency's section 366.26 report that Brandon was adoptable. Cespedes noted that Brandon was young and that he was placed with prospective adoptive parents who are "completely committed to adopting Brandon." Cespedes noted that the prospective adoptive parents had an approved adoptive home study and that they had been caring for Brandon since April 2003. During this period, Brandon responded well to the prospective adoptive parents and looked to them for "security, safety, and reassurance." Cespedes also noted that Brandon's asthma had stabilized while in the prospective adoptive parents' care and that Brandon would be receiving services for his developmental disabilities.

Ana claims that Brandon's health and developmental problems are so pronounced as to preclude a finding of adoptability. Ana focuses primarily on evidence of Brandon's mental disabilities. In September 2003, Brandon received his most recent developmental evaluation. The evaluator, Megahan Lukasik, summarized Brandon's functioning as follows:

"Brandon's scores on this evaluation indicate that his overall developmental functioning appears to be poorly developed and currently centering well below his age level. Brandon's scores on the measures used during this evaluation support a diagnosis of mild mentally retarded range of functioning. It appears that Brandon's most significant deficit lies in his verbal skills. He has a limited number of words that he speaks, his articulation is poor, and his receptive language skills also appear to be poorly developed."

Although Brandon's developmental problems are significant, they are not so great as to preclude a finding of adoptability. (See *In re Jennilee T.* (1992) 3 Cal.App.4th 212, 224 [concluding that the possibility of developmental problems caused by neurological defects does not preclude a trial court from finding that a child is adoptable].) This is particularly so given that the Agency has identified a prospective adoptive family who has been caring for Brandon for an extended period of time, and who is committed to adopting him.

Ana acknowledges that Brandon's foster parents have expressed a willingness to adopt Brandon. However, she argues that Brandon's foster parents' willingness to adopt him was not "sufficiently informed," because they were unaware of the depth of Brandon's health problems. Specifically, Ana contends that there is no evidence that Brandon's foster mother, Margarita, was aware that Brandon had been diagnosed with polycythemia<sup>2</sup> or that the Agency suspected that Brandon had an attachment disorder.

Margarita testified at the permanency plan hearing that Brandon had "pretty severe asthma," allergies, and "developmental delays" for which he would be receiving services. Margarita was never asked whether she is aware of the polycythemia diagnosis or Brandon's potential attachment disorder. Thus, there is nothing in the record to support Ana's suggestion that Margarita was unaware of these particular health issues. Further,

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<sup>2</sup> The Agency noted in its section 366.26 report that polycythemia is a condition caused by excess red blood cells, which leads to potential neurological abnormalities.

the record is clear that Brandon's foster parents are aware of his health problems in general, and that they are committed to providing him with appropriate treatment.

We conclude substantial evidence supports the trial court's determination that Brandon is likely to be adopted.

2. *Substantial Evidence Supports the Trial Court's Finding that the Beneficial Relationship Exception Contained in Section 366.26, Subdivision (c)(1)(A) Does Not Apply*

Ana claims the trial court erred in failing to find that the beneficial relationship exception to the termination of parental rights contained in section 366.26, subdivision (c)(1)(A) applies. We review the trial court's finding that the beneficial relationship exception does not apply for substantial evidence. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 53.)

"At a section 366.26 hearing, once the [Agency] has shown it is likely the child will be adopted, the burden shifts to the parents to prove that termination of parental rights would be detrimental to the child based on one of the exceptions enumerated in subdivision (c)(1)." (*In re Erik P.* (2002) 104 Cal.App.4th 395, 401.) Section 366.26, subdivision (c)(1) provides in relevant part:

"[T]hat the court has continued to remove the child from the custody of the parent or guardian and has terminated reunification services, shall constitute a sufficient basis for termination of parental rights unless the court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances:

"(A) The parents or guardians have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship."



The beneficial relationship exception requires the parent to prove: (1) that the parent "maintained regular visitation and contact with the child," and (2) that the "child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(A); see *In re Zeth S.* (2003) 31 Cal.4th 396, 412, fn. 9.) In *In re Autumn H.* (1994) 27 Cal.App.4th 567, 575, this court interpreted the benefit prong of the exception in the following manner:

"In the context of the dependency scheme prescribed by the Legislature, we interpret the 'benefit from continuing the [parent/child] relationship' exception to mean the relationship promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated."

In this case, the trial court rejected Ana's claim that the beneficial relationship exception applied (§ 366.26, subd. (c)(1)(A)). The court reasoned:

"With respect to the ties to his mother, you know, it requires something more than just recognizing her and liking to be around her and having fun playing with her, and the case law is pretty clear on that and I think particularly in this kind of situation whereas I mentioned before the child desperately needs stability and desperately needs some sort of permanence and he is almost three years old, almost four but only three and has a lot of issues that he's going to need a parent figure to help take care of and help him through. And I can't find that any -- the fact that he enjoys spending time with his mother or recognizes her is sufficient to outweigh any benefit to the very, very strong benefit to having some sort of stability in his life."

On appeal, the Agency acknowledges that Ana "probably met [the] first prong," of the exception in that she regularly visited Brandon after her release from prison. Therefore, we focus on whether there is substantial evidence to support the trial court's finding that Ana failed to demonstrate the benefit prong of the exception.

Cespedes stated in the Agency's section 366.26 report, "I do not believe the visits between Brandon and [Ana] demonstrated that there was a child-parent relationship." Cespedes based his conclusion on detailed accounts of the approximately 10 visits he observed between Brandon and Ana from August 2003 and January 2004. In summarizing these visits, Cespedes wrote, "[Ana] most of the time appeared to fit the role of playmate and not that of parent . . . ." For example, Brandon generally did not cry or become upset when the visits ended. Further, Cespedes noted that many of the visits were characterized by Ana's lack of "parenting skills such as boundaries, structure, and discipline." In addition, Brandon frequently looked to his foster parents for reassurance and comfort during the visits.

Cespedes also noted that Ana was in denial regarding Brandon's mental and physical disabilities. In contrast, the prospective adoptive parents "made themselves available to meeting Brandon's medical, emotional, and developmental, and physical needs." Further, during his placement with his prospective parents, "Brandon has stabilized his asthma attacks, become potty-trained and adjusted to his prospective adoptive family."

Ana relies on *In re Amber M.* (2002) 103 Cal.App.4th 681, 690 (*Amber M.*) to support her claim. In *Amber M.*, this court concluded that the trial court erred in failing

to apply the beneficial relationship exception to the termination of parental rights. The *Amber M.* court relied on the fact that there was nearly unanimous expert testimony that the relationship between the mother and the children should not be severed and that the Agency's social worker, who was "the only dissenting voice among the experts," had done "a perfunctory evaluation" of their relationship. (*Id.* at p. 690.)

In contrast, in this case there was no expert testimony to the effect that Ana's parental rights should be preserved. Further, the Agency's reports carefully detailed why the benefits of adoption would outweigh the benefits to be gained from Brandon's continued relationship with Ana. Finally, Brandon's counsel agreed that Ana's parental rights should be terminated.

We conclude substantial evidence supports the trial court's determination that the beneficial relationship exception does not apply.

#### IV.

#### CONCLUSION

The trial court did not abuse its discretion in denying Ana's section 388 petition because Ana failed to demonstrate changed circumstances or that Brandon's best interests would be served by reuniting with her. The trial court did not err in terminating Ana's parental rights because substantial evidence supports the trial court's findings that Brandon is likely to be adopted and that the beneficial relationship exception does not apply.

V.

DISPOSITION

The judgment is affirmed.

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AARON, J.

WE CONCUR:

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NARES, Acting P. J.

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IRION, J.